

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED - GR
September 26, 2019 10:51 AM
CLERK OF COURT
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY: mkc SCANNED BY: TS 9/26/19

UNITED STATES OF AMERICA, *et al.*,
ex rel. SCOTT STONE and BETHANY
McKINLEY,

Plaintiffs,

v.

Case No. 1:18-CV-1416

TRAVERSE ANESTHESIA ASSOCIATES,
P.C., *et al.*,

Hon. Robert J. Jonker
Chief United States District Judge

Defendants.

**THE UNITED STATES OF AMERICA'S NOTICE OF ELECTION TO
INTERVENE, IN PART, FOR PURPOSES OF SETTLEMENT
AND TO DECLINE TO INTERVENE, IN PART**

Pursuant to the False Claims Act, 31 U.S.C. §§ 3730(b)(2) and (4), the United States of America hereby notifies the Court of its election to intervene in part of this action, for the purposes of settlement, and to decline to intervene in part of this action. The United States intervenes only as to Relators' claims in Counts I, II, III, and IV, asserted against Defendants Traverse Anesthesia Associates, P.C., Mark Aulicino, M.D., Frederick Campbell, M.D., Edward Vomastek, D.O., Brian Kiessling, M.D., Timothy Esser, M.D., and Matthew Martin, M.D. (the "Settlement Defendants"), that the Settlement Defendants submitted or caused to be submitted false claims to Medicare for medically directed anesthesia services when they did not meet the regulatory criteria for billing these services as medically directed (the "Medical Direction Allegation"). The United States declines to intervene as to (1) any claims asserted against defendants PhyMed Healthcare Group, LLC, Robert David Denyer, A.A., Cynthia Rankin, A.A., and Denise Campbell; and (2) Counts I, II, III, or IV asserted against the Settlement Defendants, to the extent those claims are

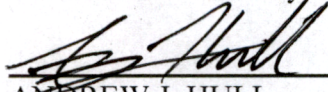
not related to the Medical Direction Allegation. With this notice, the parties are filing a joint stipulation of partial dismissal and a proposed order dismissing Counts I, II, III, and IV of this action as to the Settlement Defendants. To the extent that Relators are dismissing claims and defendants with respect to which, or with respect to whom, the government has not intervened, the United States consents to that dismissal under the False Claims Act, 31 U.S.C. § 3730(b)(1), so long as the dismissal of the non-intervened claims and the non-intervened defendants is without prejudice to the United States.

The United States respectfully requests that Relators' Complaint, this Notice, the joint stipulation of partial dismissal, and the proposed order dismissing Counts I, II, III, and IV of this action be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the government's investigation, such papers were provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

Dated: September 26, 2019

Respectfully submitted,

ANDREW BYERLY BIRGE
United States Attorney



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